IN THE HIGH COURT OF KERALA AT ERNAKULAM

PRESENT :

THE HONOURABLE MR. JUSTICE A.K.BASHEER

FRIDAY, THE 5TH OCTOBER 2007 / 13TH ASWINA 1929

WP(C).No. 14471 of 2004(W)

PETITIONER:

SANTHAPPAN, S/O. ENASO NADAR,
AGED 52 YEARS, SOUMYASHOGAN, ERUMBIL,
NEYYATTINKARA, THIRUVANANTHAPURAM.
(SUB-ENGINEER, ELE MAJOR SECTION, KSEB)

BY ADV. SRI.SAJU.S.A

RESPONDENTS:

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1. KERALA STATE ELECTRICITY BOARD,
THIRUVANANTHAPURAM,
REPRESENTED BY SECRETARY.

2. CHAIRMAN, KERALA STATE ELECTRICITY BOARD,
VYDYUTHI BHAVAN, PATTOM, TRIVANDRUM.

3. EXECUTIVE ENGINEER, ELECTRICAL
DIVISION, KASARAGOD.

4. DEPUTY CHIEF ENGINEER,
ELECTRICAL CIRCLE, KASARAGOD.

BY ADV. SRI.A.SUDHI VASUDEVAN, SC, KSEB

THIS WRIT PETITION (CIVIL) HAVING BEEN FINALLY HEARD ON 05/10/2007, THE COURT ON THE SAME DAY DELIVERED THE FOLLOWING:

APPENDIX

PETITIONER'S EXHIBITS:

Ext.P1: True copy of the charge sheet by the 3rd respondent.

Ext.P2: True copy of the enquiry report.

Ext.P3: True copy of the Show cause notice issued by 3rd respondent.

Ext.P4: True copy of the reply dt.10.10.02.

Ext.P5: True copy of the order issued by 4th respondent.

Ext.P6: True copy of the order dt.9.10.03 issued by 1st respondent.

Ext.P7: True copy of the order of the 2nd respondent dated 28.2.2004.

// True copy //

P.A. to Judge

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A.K.BASHEER, J.

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W.P.(C)No.14471 OF 2004

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Dated this the 5th day of October 2007

JUDGMENT

This writ petition is at the instance of a Sub Engineer who has been working in the Kerala State Electricity Board. It is the admitted position that he has retired from service in the year 2006. He impugns the order of punishment of barring of one increment with cumulative effect apart from recovery of Rs.7,500/- from him being the damages suffered by the Board. The relevant facts which lead to the imposition of punishment of the petitioner may be briefly noticed. Petitioner had prepared an estimate for drawing a service line to a consumer while he was working as Overseer in Manjeshwar Electrical Section in the year 1999-2000. According to the Board, petitioner had prepared the estimate for the line as 180m of overhead line and 20m of weather proof line. It is the specific case of the petitioner that the above estimate prepared by him was approved and sanctioned by the Assistant Engineer. Thereafter, the work was executed and the line was drawn.

2. But later, on an inspection made by the authorities in the Board, it was revealed that the length of the overhead was 210m and the weather proof line had a length of 3m. In other words, there was an excess of 13m altogether. The loss suffered by the Board was estimated to be Rs.7,500/-.

3. Disciplinary proceedings were initiated against the petitioner. The explanation submitted by the petitioner was not found to be satisfactory. An enquiry was instituted against him. The enquiry officer found that the charge levelled against the officer was proved. Therefore the disciplinary authority, after accepting the finding, imposed the penalty referred to above. Though the petitioner challenged the above order before the appellate authority and the Chairman of the Board, the two authorities concurrently affirmed the finding entered by the disciplinary authority. It is in the above circumstances, that the petitioner has preferred this writ petition.

4. It is primarily contended by the petitioner that the disciplinary proceedings are patently vitiated in as much as

the presenting officer in the enquiry was the same officer who had sanctioned the work after approving the estimate prepared by the petitioner. It is further contended by the petitioner that the fact that the work was executed by another employee of the board after obtaining sanction was ignored by the authority concerned. Petitioner had nothing to do with the execution of the work. He had only prepared the estimate and submitted the same before the authority who had subsequently sanctioned it.

5. Significantly, it is admitted by the respondent in the counter affidavit that the presenting officer in the disciplinary proceedings was infact the sanctioning officer himself. But according to respondent it was the Assistant Engineer of the section concerned, who was the custodian of the materials required for executing the work and not the presenting officer. In my view the above explanation is totally flimsy and untenable.

6. Anyhow, the fact remains that the petitioner had retired from service in the year 2006. Learned counsel

submits that the petitioner is prepared to pay the alleged loss sustained by the Board. The limited plea is to delete the other part of the punishment namely, barring of one increment with cumulative effect.

7. In the peculiar facts and circumstances, I am satisfied that the above plea is only just and reasonable, particularly since there was violation of the rules of natural justice in as much as the authority who had sanctioned the work had himself acted as the presenting officer. Therefore, the Ext.P7 order is modified to the extent that the petitioner shall be liable to remit the sum of Rs.7,500/- being the loss sustained by the Board. The other part of the punishment imposed by the Board i.e., barring of one increment with cumulative effect is set aside.

Writ petition is allowed in the above terms.

(A.K.BASHEER, JUDGE)

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